

United States District Court
Southern District Of Texas
FILED

MAY 18 2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**ENTERED**

May 18, 2020

David J. Bradley, Clerk

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UNITED STATES OF AMERICA	§	
	§	
VS.	§	CASE NO. 7:20-MJ-0983-01
	§	
FILIBERTO MARTINEZ, JR.	§	

ORDER

A detention hearing in accordance with 18 U.S.C. §3142(f) was held on May 18, 2020. Here, Defendant has been charged by criminal complaint under Title 18 U.S.C. § 554 for attempting to export ammunition to Mexico and conspiring to do the same.

It is the Government's burden to prove either (1) there is a preponderance of the evidence that Defendant is a flight risk, or (2) there is clear and convincing evidence that Defendant is a danger to the community.

In evaluating whether there are conditions of release that will reasonably assure the appearance of the defendant at trial and the safety of others and the community, the Court must consider the factors laid out by 18 U.S.C. § 3142(g). These factors are: (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug; (2) the weight of the evidence against the person; (3) the history and characteristics of the person, including (A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, record concerning appearance at court proceedings, and (B) whether at the time of the current offense or arrest the defendant was on probation or parole; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. (*Id.*).

As set out in the Pretrial Report (Dkt. No. 6), Defendant **FILIBERTO MARTINEZ, JR.** is a thirty-eight-year-old United States citizen, born in Alliance, Nebraska. It appears that Defendant has lived in the Rio Grande Valley area for most of his life. While Defendant is currently unemployed, he did work as a truck driver for about four years. His significant other is a permanent resident alien, who has familial ties to Mexico. Defendant travels weekly to Mexico for groceries, medication, doctor's appointments, and visitation with his significant other's family. Defendant has no prior criminal convictions. He has no history of substance abuse.

Based on the factual findings above, the parties' proffers at the hearing, and the Bail Reform Act, the undersigned finds that there are conditions of release that would minimize any risk of flight or danger to the community relating to Defendant. As such, the undersigned hereby releases Defendant on bond in lieu of detention. **IT IS ORDERED** that bond for Defendant be set at \$40,000.00, with a \$1,500.00 cash deposit. The undersigned adopts the conditions of release (Conditions 2 through 10) that are set out in the Pretrial Report (Dkt. No. 6 at 5). Finally, Defendant will be required to participate in an electronic monitoring program as directed by the U.S. Probation Office and pay costs associated with such monitoring based on the ability to pay as determined by the U.S. Probation Office. To include:

-Home Detention with Radio Frequency monitoring. Defendant is restricted to his residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the U.S. Probation Office.

These are the least restrictive combination of conditions that will reasonably assure the appearance of Defendant, as required by Title 18, United States Code, § 3142(c)(1)(B). Defendant is hereby instructed to comply with all terms and conditions set forth in the Court's

order of release. Any violation of those terms and conditions will result in the punishments outlined in the order of release.

IT IS SO ORDERED.

DONE at McAllen, Texas, this the 18th day of May, 2020.



J. SCOTT HACKER
United States Magistrate Judge